

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Magistrate No. 1:20-mj-56

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Valentino Cuba, being duly sworn depose and say:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) presently assigned to the Erie, Pennsylvania resident agency of the FBI. I am responsible for investigating violent crimes including arson.

2. I submit this affidavit in support of a Criminal Complaint charging Melquan Barnett with maliciously damaging and attempting to damage or destroy, by means of fire, a building used in interstate commerce or in any activity affecting interstate commerce, namely Ember + Forge, 401 State Street, Erie, Pennsylvania 16501, in violation of 18 U.S.C. § 844(i). I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the Criminal Complaint.

3. This affidavit is based on my personal knowledge, my review of records, interviews conducted by law enforcement agents and officers, my review of photographs and video recordings, and information provided to me by other law enforcement agents and from persons with knowledge regarding relevant facts.

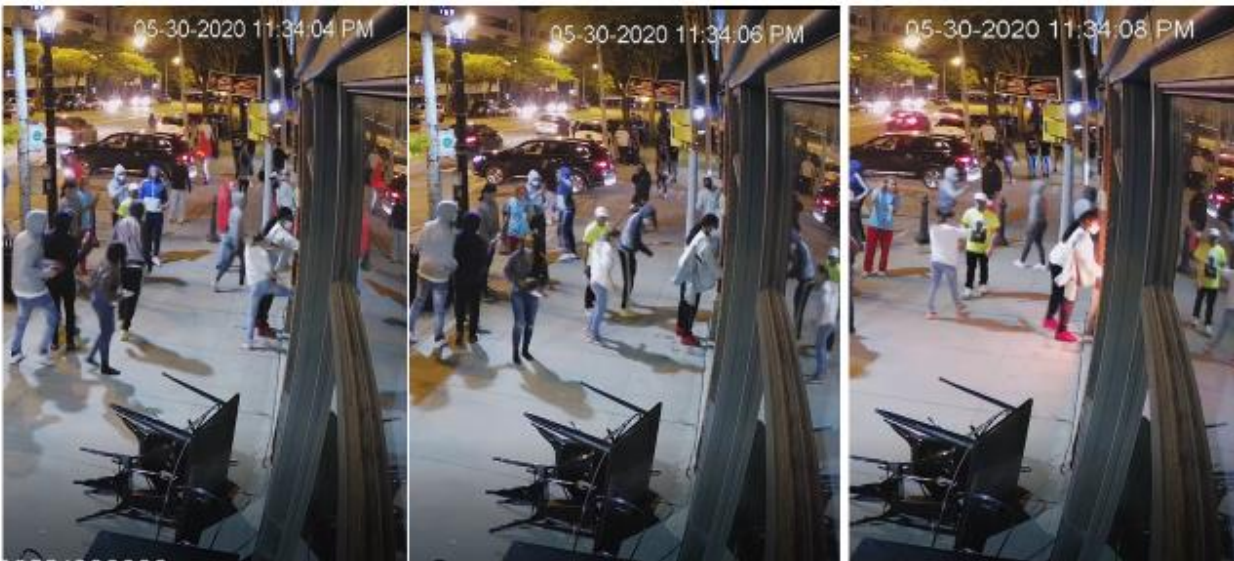
4. On June 1, 2020, Detective Dave Walker of the Erie Police Department provided your affiant with video footage from public Facebook live videos and Ember + Forge for the evening of May 30, 2020, during the time when a public disturbance was occurring on State Street and the

surrounding area. The Facebook live video footage reviewed by your affiant depicted an African American male with black dread lock hair down to the middle of his back. The subject was wearing a white mask, white shirt, light blue jean jacket, black pants with a red and white stripe pattern down the side and red shoes. The video footage reviewed by your affiant depicts this subject setting a fire inside of Ember + Forge after a window at Ember + Forge that faces State Street was shattered when another individual kicked the window.

5. Your affiant reviewed Ember + Forge video surveillance footage which depicts the same subject, wearing the same clothing and with the same physical appearance, setting a fire inside of Ember + Forge through a window which has been shattered. Your affiant obtained a still shot from the Ember + Forge footage of the subject who started the fire, which shows a neck tattoo on the left side of the subject's neck.



Although perhaps somewhat difficult to discern from the still shot, the video displays a clearer depiction of the subject's tattoos. Below is also a series of three still shots from the Ember + Forge video footage depicting the subject, subsequently identified as Melquan Barnett, setting the fire at Ember + Forge on May 30, 2020.



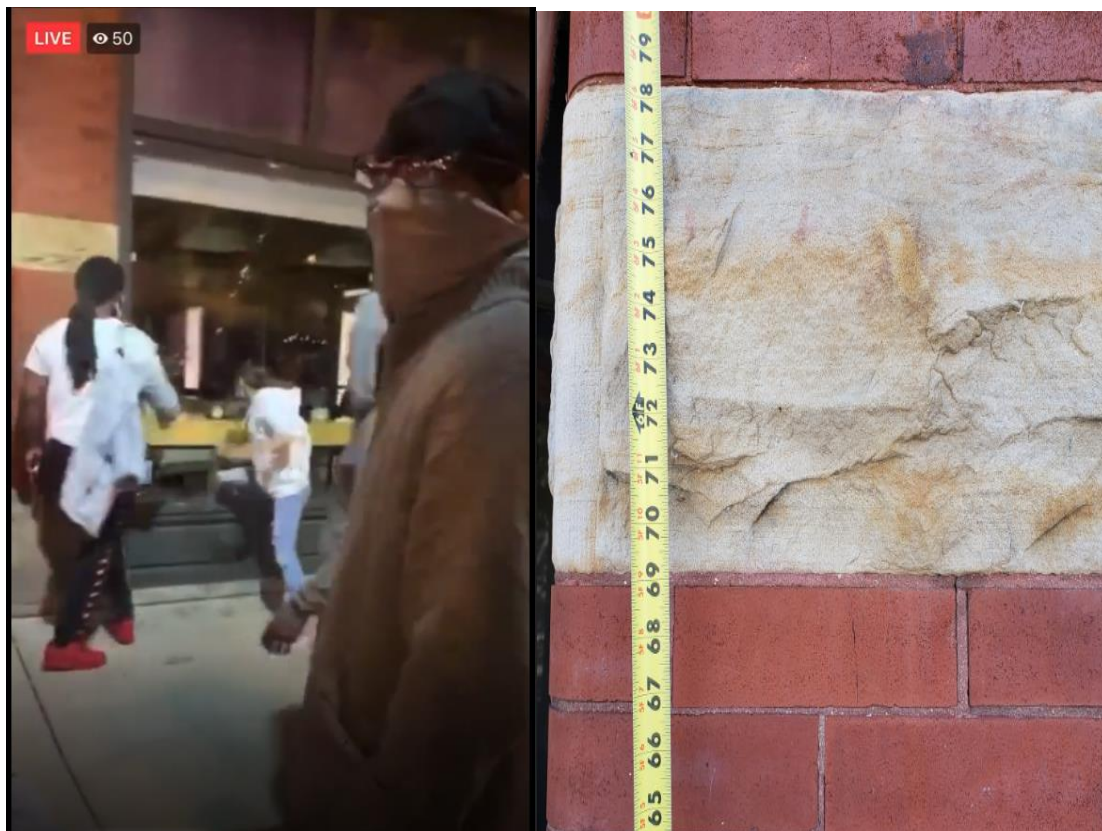
6. During my review of additional Facebook public video footage from the area of State Street near City Hall in Erie on the evening of May 30, 2020, your affiant identified the same African-American individual with dreadlock hair, without the mask on, wearing the same white shirt, light blue jean jacket, black pants with a stripe pattern down the side and red shoes. The subject's face is fully visible in this video footage. Officers of the Erie Police Department who are familiar with Melquan Barnett have reviewed this video footage and identified Melquan Barnett as the individual depicted in this video footage from State Street on May 30, 2020. Below is a still shot from that video footage.



7. Your affiant obtained Melquan Barnett's criminal history from the Commonwealth of Pennsylvania. As part of the booking process, photos of the arrestee are taken and included as part of the criminal history. Melquan Barnett's neck tattoo is depicted in the booking photo your affiant has reviewed. The booking photo is included below. The neck tattoo depicted on the subject from the above included still shot from the Ember + Forge video footage is consistent with the neck tattoo depicted in Melquan Barnett's prior booking photo.



8. On June 1, 2020 your affiant visited Ember + Forge and measured the height of a beige concrete mark or block on the front of the Ember + Forge building which faces State Street. This beige block is immediately adjacent to the exterior window through which the fire was set on May 30, 2020. The beige concrete block or mark was used as a reference point to determine the height of the subject, since identified as Melquan Barnett, who lit the fire at Ember + Forge on May 30, 2020. The reference point measures between approximately seventy (70) and seventy-eight (78) inches. According to Barnett's Pennsylvania driver's license, Barnett's height is listed as 6'00". My review of the May 30, 2020, Facebook live footage of the arson at Ember + Forge shows the arson subject, later identified as Melquan Barnett, with a height that is very similar to the height listed on Barnett's Pennsylvania driver's license. The similarity is depicted in the below included still shot from the May 30, 2020 Facebook live footage of Ember + Forge and the height of the reference point depicted in the adjacent image of the beige block.



9. On June 2, 2020, ATF Special Agent/Certified Fire Investigator Matthew Regentin conducted a fire scene examination of Ember + Forge Coffee Shop. Data is still being collected and analyzed pursuant to the investigation. However, based upon an analysis of the collected data, which includes an examination of the scene and a review of available video footage, the fire originated on an interior counter top on the west side of the premises adjacent to an exterior window that had been broken out prior to the fire. The collected data is also consistent with the fire being caused by the intentional introduction of an ignitable liquid to the countertop through the broken window and the ignition of the ignitable liquid vapors by an open flame device. The data obtained during the investigation supports a classification of Incendiary. There was no information found during the investigation to support an accidental cause hypothesis. These findings are preliminary and are subject to a final origin and cause report.

10. Ember + Forge is a coffee shop in Erie, Pennsylvania engaged in interstate commerce and activity affecting interstate commerce in numerous different ways, including but not limited to, maintaining a Facebook page, an Instagram account and a website on the Internet, as well as offering gift cards for sale via the Internet. Ember + Forge also purchases their coffee cups for use in the store from New York State.

WHEREFORE, based upon all of the foregoing information, I have probable cause to believe that on May 30, 2020, Melquan Barnett maliciously damaged and attempted to damage and destroy, by means of fire, a building used in interstate commerce or in any activity affecting interstate commerce, namely Ember + Forge, 401 State Street, Erie, Pennsylvania 16501, in violation of Title 18, United States Code, Section 844(i).

S/Valentino Cuba

Valentino Cuba

Special Agent

Federal Bureau of Investigation

Sworn and subscribed before me, by telephone
pursuant to Fed. R. Crim. P. 4.1(b)(2)(A),
this 3rd day of June 2020


RICHARD A. LANZILLO
United States Magistrate Judge